

90. At the beginning of the 2018/19 financial year, the NZTA had an available retained earnings balance of \$10 million. However, due to a series of write-offs (including the direct rectification costs paid out of \$4 million), the available balance as at the end of the 2018/19 financial year has reduced to \$3.1 million. The NZTA anticipates that it potentially may need to pay out \$13.5 million² in additional direct rectification costs associated with the backlog of historic regulatory non-compliance cases.

Table one: Estimated direct rectification costs for regulatory non-compliance cases

Cost type	Estimated amount (\$ million)
Provision for paying out existing claims (on top of the existing \$4 million paid out to date)	5.4
Estimated cost for chassis certified by non compliant Heavy Vehicle Specialist Certifiers	6.7
Contingency amount (based on a more conservative estimate on the existing claims)	1.1
Estimated potential rectification costs based on investigations still to be finalised	0.3
Total	13.5

91. The NZTA Board has taken a decision to limit the future payment of direct rectification costs to only those vehicles affected as part of the backlog of regulatory non-compliance cases identified in October 2018. The NZTA has signalled that it will be strengthening the insurance requirements on inspecting organisations and certifiers to mitigate further costs to the Crown if significant regulatory non-compliance is identified in the future.
92. It is unusual for government agencies to be able to incur expenditure planned to be recovered from future increases in funding in advance of completing a funding review process. However, at the same time, it is important that a practical approach is taken to ensure that agencies are able to address significant deficiencies, such as the case in the NZTA's regulatory function, particularly when not addressing these deficiencies perpetuates existing safety issues and undermines confidence in the land transport regulator.
93. A high benchmark must be applied in considering decisions to both incur additional expenditure and to then recover that expenditure through a funding review process. It is important that appropriate consultation is undertaken with stakeholders and the public before changing funding settings. There are also risks of making decisions on funding settings where the NZTA is yet to establish a clear strategy and approach for how it will perform its regulatory functions.

² This includes the payment of \$5.4 million of costs included in the \$15 million of rectification costs as at 30 June 2019 that are yet to be paid out.